

6964

I N S E N A T E

April 17, 2012

Introduced by Sens. CARLUCCI, KLEIN, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing the Shop: Pride of New York program for wholesale and retail sellers of food and food products produced in New York state

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The agriculture and markets law is amended by adding a new
2 section 156-j to read as follows:
3 S 156-J. SHOP: PRIDE OF NEW YORK. 1. DEFINITIONS. AS USED IN THIS
4 SECTION, THE FOLLOWING TERMS SHALL MEAN:
5 (A) "NEW YORK PRODUCT" MEANS (I) NEW YORK STATE GROWN FARM PRODUCT
6 PACKED WITHIN THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTAB-
7 LISHED AS PROVIDED BY THIS ARTICLE, ARTICLE THIRTEEN, ARTICLE THIR-
8 TEEN-A, ARTICLE THIRTEEN-B, ARTICLE THIRTEEN-C AND ARTICLE THIRTEEN-D OF
9 THIS CHAPTER OR ANY NEW YORK STATE PRODUCED OR LANDED AQUATIC PRODUCT,
10 SUBJECT TO AND IN ACCORDANCE WITH RULES AND REGULATIONS TO BE PROMULGAT-
11 ED BY THE COMMISSIONER; OR
12 (II) ANY NEW YORK STATE PROCESSED FOOD PRODUCT, MANUFACTURED WITHIN
13 THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTABLISHED BY THE
14 COMMISSIONER PURSUANT TO REGULATION, WHICH IS ESSENTIALLY COMPOSED OF
15 NEW YORK STATE GROWN FARM PRODUCTS, PROVIDED, HOWEVER, THAT WHENEVER THE
16 COMMISSIONER DETERMINES, AFTER PUBLIC HEARING, THAT THE USE OF INGREDI-
17 ENTS NOT GROWN OR PRODUCED IN THIS STATE IS NECESSARY OR BENEFICIAL IN
18 MANUFACTURING A PARTICULAR PRODUCT BECAUSE SUCH INGREDIENTS ARE EITHER
19 NOT GROWN IN NEW YORK OR UNAVAILABLE IN SUFFICIENT QUANTITY OR AT A
20 REASONABLE PRICE TO ALLOW THE PRODUCT TO BE COMPOSED OF ONLY NEW YORK
21 STATE GROWN FARM PRODUCTS, THE STANDARD FOR SUCH PRODUCT MAY AUTHORIZE
22 THE INCLUSION OF INGREDIENTS NOT PRODUCED IN THIS STATE, EXCEPT THAT IN
23 NO EVENT SHALL AN OFFICIAL BRAND OR MARK BE APPROVED FOR USE ON A FOOD
24 PRODUCT UNLESS AT LEAST FIFTY-ONE PERCENT OF ITS CONTENT IS DERIVED FROM
25 NEW YORK STATE GROWN FARM PRODUCTS.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD14877-04-2

1 (B) "FOOD SELLER" MEANS ANY PERSON OR ENTITY REGULARLY ENGAGED IN THE
2 SALE OF FOOD AND/OR FOOD PRODUCTS.

3 2. THE COMMISSIONER SHALL DESIGN, DETERMINE AND ADOPT AN OFFICIAL LOGO
4 FOR SHOP: PRIDE OF NEW YORK FOOD SELLERS WHICH MAY BE DISPLAYED UPON THE
5 PREMISES OF FOOD SELLERS DESIGNATED PURSUANT TO THIS SECTION. SUCH
6 LOGO, WHEN ADOPTED BY THE COMMISSIONER, MAY BE REGISTERED AS A TRADEMARK
7 IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO ARTICLE TWENTY-FOUR
8 OF THE GENERAL BUSINESS LAW OR ANY OTHER PROVISION OF LAW RELATING TO
9 THE REGISTRATION OF TRADEMARKS. SUCH TRADEMARK SHALL BE REGISTERED BY
10 THE SECRETARY OF STATE WITHOUT EXTRACTION OF ANY FEE THEREFOR. THE
11 COMMISSIONER MAY, IN HIS OR HER DISCRETION, REGISTER SUCH MARK WITH THE
12 UNITED STATES GOVERNMENT AND ANY OTHER STATE OR FOREIGN COUNTRY.

13 3. A RETAIL FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS
14 BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK FOOD SELLER, IF SUCH
15 RETAIL FOOD SELLER SELLS OR OFFERS FOR SALE AT LEAST TWENTY DIFFERENT
16 FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS. EVERY APPLICANT
17 FOR DESIGNATION PURSUANT TO THIS SECTION SHALL INCLUDE IN HIS OR HER
18 APPLICATION A LIST OF NEW YORK PRODUCTS SOLD ANNUALLY, THE NAMES OF THE
19 NEW YORK PRODUCT PRODUCERS FROM WHOM SUCH PRODUCTS WERE PURCHASED, AND A
20 ONE SENTENCE DESCRIPTION OF ITS BUSINESS. THE COMMISSIONER MAY, BASED
21 UPON THE PRODUCERS NAMED IN EACH APPLICATION, VERIFY THAT THE PRODUCTS
22 SOLD BY THE APPLICANT ARE NEW YORK PRODUCTS. IF THE COMMISSIONER FINDS
23 THAT THE APPLICANT'S BUSINESS COMPLIES WITH THE STANDARDS ESTABLISHED IN
24 THIS SUBDIVISION HE OR SHE SHALL DESIGNATE THE RETAIL FOOD SELLER AS A
25 SHOP: PRIDE OF NEW YORK FOOD SELLER. APPLICANTS RECEIVING SUCH DESIG-
26 NATION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE
27 PROVIDED WITH OFFICIAL SHOP: PRIDE OF NEW YORK ADVERTISING AND PROMO-
28 TIONAL MATERIALS FREE OF CHARGE. THEREAFTER, THE COMMISSIONER SHALL
29 PROVIDE SUCH MATERIALS, AS HE OR SHE DEEMS NECESSARY, TO FULFILL THE
30 GOALS AND PURPOSES OF THE SHOP: PRIDE OF NEW YORK PROGRAM.

31 4. A WHOLESALE FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS
32 BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK WHOLESALER, IF SUCH
33 WHOLESALE FOOD SELLER SELLS OR OFFERS FOR SALE SUCH QUANTITIES AND TYPES
34 OF FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS, AS SHALL BE
35 ESTABLISHED IN THE RULES OF THE DEPARTMENT. EVERY APPLICANT FOR DESIG-
36 NATION PURSUANT TO THE SUBDIVISION SHALL INCLUDE IN HIS OR HER APPLICA-
37 TION A LIST OF NEW YORK PRODUCTS SOLD ANNUALLY, THE NAMES OF THE NEW
38 YORK PRODUCT PRODUCERS FROM WHOM SUCH PRODUCTS WERE PURCHASED, AND A ONE
39 SENTENCE DESCRIPTION OF ITS BUSINESS. THE COMMISSIONER MAY, BASED UPON
40 THE PRODUCERS NAMED IN EACH APPLICATION, VERIFY THAT THE PRODUCTS SOLD
41 BY THE APPLICANT ARE NEW YORK PRODUCTS. IF THE COMMISSIONER FINDS THAT
42 THE APPLICANT COMPLIES WITH THE STANDARDS ESTABLISHED IN THIS SUBDIVI-
43 SION, HE OR SHE SHALL DESIGNATE THE WHOLESALE FOOD SELLER AS A SHOP:
44 PRIDE OF NEW YORK WHOLESALER. APPLICANTS RECEIVING SUCH DESIGNATION
45 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE PROVIDED
46 WITH OFFICIAL SHOP: PRIDE OF NEW YORK ADVERTISING AND PROMOTIONAL MATE-
47 RIALS FREE OF CHARGE. THEREAFTER, THE COMMISSIONER SHALL PROVIDE SUCH
48 MATERIALS, AS HE OR SHE DEEMS NECESSARY, TO FULFILL THE GOALS AND
49 PURPOSES OF THE SHOP: PRIDE OF NEW YORK PROGRAM.

50 5. THE DEPARTMENT SHALL ESTABLISH, ON ITS DEPARTMENTAL INTERNET
51 WEBSITE, A LINK DEDICATED TO THE SHOP: PRIDE OF NEW YORK PROGRAM. SUCH
52 LINK SHALL INCLUDE THE NAME, LOCATION AND HOURS OF OPERATION OF EACH
53 SHOP: PRIDE OF NEW YORK DESIGNATED FOOD SELLER, AND THE SINGLE SENTENCE
54 DESCRIPTION OF THE FOOD SELLER'S BUSINESS THAT WAS INCLUDED IN ITS
55 APPLICATION. FURTHERMORE, THE DEPARTMENT, IN COOPERATION WITH THE
56 DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE REGIONAL OFFICES OF SUCH

1 DEPARTMENT, SHALL ENGAGE IN THE PROMOTION OF SHOP: PRIDE OF NEW YORK
2 DESIGNATED FOOD SELLERS.

3 6. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS HE
4 OR SHE DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

5 S 2. This act shall take effect on the first of January next succeed-
6 ing the date on which it shall have become a law, provided, that, effec-
7 tive immediately, any rules and regulations necessary to implement the
8 provisions of this act on its effective date are authorized and directed
9 to be promulgated on or before such date.